

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent Earnest Governmental Relations Consulting (“EGRC”) was a registered lobbying firm located in Sacramento. Respondent Curtis J. Earnest is a registered lobbyist, and the owner of Respondent EGRC. The lobbying provisions of the Political Reform Act (the “Act”)<sup>1</sup> require registered lobbying firms to file quarterly reports, disclosing specified information about their lobbying activities. In this matter, Respondents failed to file eight quarterly lobbying reports as required by the Act. This matter arose from a referral from the Secretary of State’s Office and from an audit conducted by the Franchise Tax Board.

For the purposes of this Stipulation, Respondents’ violations are stated as follows:

- COUNT 1: Respondents failed to file a quarterly lobbying firm report for the reporting period October 1 through December 31, 1997, by the February 2, 1998 due date, in violation of Section 86117.
- COUNT 2: Respondents failed to file a quarterly lobbying firm report for the reporting period April 1 through June 30, 1998, by the July 31, 1998 due date, in violation of Section 86117.
- COUNT 3: Respondents failed to file a quarterly lobbying firm report for the reporting period July 1 through September 30, 1998, by the November 2, 1998 due date, in violation of Section 86117.
- COUNT 4: Respondents failed to file a quarterly lobbying firm report for the reporting period October 1 through December 31, 1998, by the February 1, 1999 due date, in violation of Section 86117.
- COUNT 5: Respondents failed to file a quarterly lobbying firm report for the reporting period January 1 through March 31, 1999, by the April 30, 1999 due date, in violation of Section 86117.
- COUNT 6: Respondents failed to file a quarterly lobbying firm report for the reporting period April 1 through June 30, 1999, by the August 2, 1999 due date, in violation of Section 86117.

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<sup>1</sup> The Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

COUNT 7: Respondents failed to file a quarterly lobbying firm report for the reporting period July 1 through September 30, 1999, by the November 1, 1999 due date, in violation of Section 86117.

COUNT 8: Respondents failed to file a quarterly lobbying firm report for the reporting period October 1 through December 31, 1999, by the January 31, 2000 due date, in violation of Section 86117.

RESPONDENTS: Earnest Governmental Relations Consulting and Curtis J. Earnest

### **SUMMARY OF THE LAW**

Under Section 81002, a stated purpose of the Act is that “the activities of lobbyists should be regulated and their finances disclosed in order that improper influences will not be directed at public officials.” In furtherance of this purpose, the Act requires registration and reporting by individuals and entities that make or receive payments for the purpose of influencing decisions of the State Legislature and state administrative agencies under the lobbying provisions contained in Sections 86100 through 86300.

#### **Definitional Provisions**

Section 82039 defines a “lobbyist” as an individual who receives \$2,000 or more in a calendar month, other than reimbursement for reasonable travel expenses, or whose principal duties as an employee are to communicate directly or through his or her agents with any elective state official, agency official, or legislative official, for the purpose of influencing legislative or administrative action. Section 86100, subdivision (a) states that “individual lobbyists shall prepare lobbyist certifications . . . for filing with the Secretary of State as part of the registration of the lobbying firm in which the lobbyist is a partner, owner, officer, or employee or as part of the registration of the lobbyist employer by which the lobbyist is employed.”

Section 82038.5, subdivision (a)(1) defines a “lobbying firm” as a business entity that “receives or becomes entitled to receive any compensation . . . for the purpose of influencing legislative or administrative action on behalf of any other person, and any partner, owner, officer, or employee of the business entity.” Section 86100, subdivision (b) states that lobbying firms shall register with the Secretary of State.

#### **Reporting Provisions**

Section 86113, subdivision (a) requires registered lobbyists to complete and verify a periodic report (Form 615). This report contains specified information about the activity expenses of the lobbyist, and about contributions of \$100 or more made or delivered by the lobbyist to any elected state officer or state candidate, during the period covered by the report. The lobbyist must “provide the

original of his or her periodic report to his or her lobbyist employer or lobbying firm within two weeks following the end of each calendar quarter.” (Section 86113, subd. (b).)

Section 86114, subdivision (a) requires registered lobbying firms to file a periodic report (Form 625) with the Secretary of State, disclosing the firm’s clients, payments received from each client, the firm’s activity expenses, and any contributions of \$100 or more made by the lobbying firm. Lobbying firms must attach to each report a completed and verified report by each lobbyist in the lobbying firm regarding that lobbyist’s activities. (Section 86114, subd. (a)(4).) Section 86117 requires lobbying firms to file these reports four times per calendar year. A lobbying firm may only end its filing obligations by filing a termination or withdrawal statement with the Secretary of State.

### **Liability of Third Parties**

Section 83116.5 states that any person who violates, or who purposely or negligently causes another to violate, any provision of the Act shall be liable for the violation, so long as that person has filing or reporting obligations under the Act, or is compensated for services involving the planning, organizing, or directing of any activity regulated or required by the Act.

### **SUMMARY OF THE FACTS**

Respondent EGRC was a lobbying firm located in Sacramento, and registered with the Secretary of State. Respondent Curtis J. Earnest is a registered lobbyist, and the owner of Respondent EGRC. Respondents had a duty under the lobbying provisions of the Act to file periodic reports disclosing their lobbying activities. Respondents, however, did not file eight periodic reports during the 1998 and 1999 calendar years. The following table reflects information regarding each report not timely filed:

<b>Count</b>	<b>Lobbying Firm Report Not Timely Filed</b>	<b>Reporting Period</b>	<b>Due Date</b>	<b>Information Not Disclosed</b>
1	4 <sup>th</sup> Quarter (1997)	Oct. 1 to Dec. 31, 1997	Feb. 2, 1998	\$12,500 in client fees
2	2 <sup>nd</sup> Quarter (1998)	Apr. 1 to Jun. 30, 1998	Jul. 31, 1998	\$16,250 in client fees
3	3 <sup>rd</sup> Quarter (1998)	Jul. 1 to Sept. 30, 1998	Nov. 2, 1998	\$18,750 in client fees
4	4 <sup>th</sup> Quarter (1998)	Oct. 1 to Dec. 31, 1998	Jan. 31, 1999	\$16,250 in client fees
5	1 <sup>st</sup> Quarter (1999)	Jan. 1 to Mar. 31, 1999	Apr. 30, 1999	\$16,250 in client fees
6	2 <sup>nd</sup> Quarter (1999)	Apr. 1 to Jun. 30, 1999	Aug. 2, 1999	\$16,250 in client fees
7	3 <sup>rd</sup> Quarter (1999)	Jul. 1 to Sept. 30, 1999	Nov. 1, 1999	\$37,250 in client fees
8	4 <sup>th</sup> Quarter (1999)	Oct. 1 to Dec. 31, 1999	Jan. 31, 2000	\$32,745 in client fees
<b>Total</b>				\$166,245 in client fees

### **COUNT 1**

### **Failure to Timely File Fourth Quarter 1997 Lobbying Firm Report**

Respondents were required to file a fourth quarter 1997 lobbying firm report by February 2, 1998, for the reporting period October 1 to December 31, 1997. Respondents did not file the lobbying firm report by the February 2, 1998 due date. During the fourth quarter of 1997, Respondents received \$12,500 in lobbying fees from its client, the Water Replenishment District of Southern California ("WRDSC"). By failing to timely file the fourth quarter 1997 lobbying firm report, Respondent violated Section 86117.

#### COUNT 2

### **Failure to Timely File Second Quarter 1998 Lobbying Firm Report**

Respondents were required to file a second quarter 1998 lobbying firm report by July 31, 1998, for the April 1 to June 30, 1998 reporting period. Respondents did not file the lobbying firm report by the July 31, 1998 due date. During the second quarter of 1998, Respondents received \$16,250 in lobbying fees from WRDSC. By failing to timely file the second quarter 1998 lobbying firm report, Respondent violated Section 86117.

#### COUNT 3

### **Failure to Timely File Third Quarter 1998 Lobbying Firm Report**

Respondents were required to file a third quarter 1998 lobbying firm report by November 2, 1998, for the July 1 to September 30, 1998 reporting period. Respondents did not file the lobbying firm report by the November 2, 1998 due date. During the third quarter of 1998, Respondents received \$18,750 in lobbying fees from WRDSC. By failing to timely file the third quarter 1998 lobbying firm report, Respondent violated Section 86117.

#### COUNT 4

### **Failure to Timely File Fourth Quarter 1998 Lobbying Firm Report**

Respondents were required to file a fourth quarter 1998 lobbying firm report by January 31, 1999 for the October 1 to December 31, 1999 reporting period. Respondents did not file the lobbying firm report by the January 31, 1999 due date. During the third quarter of 1998, Respondents received \$16,250 in lobbying fees from WRDSC. By failing to timely file the fourth quarter 1998 lobbying firm report, Respondent violated Section 86117.

#### COUNT 5

### **Failure to Timely File First Quarter 1999 Lobbying Firm Report**

Respondents were required to file a first quarter 1999 lobbying firm report by April 30, 1999 for the January 1 to March 31, 1999 reporting period. Respondents did not file the lobbying firm report by the April 30, 1999 due date. On June 4, 1999, Caren Daniels-Meade, Chief of the Political Reform Division of the Secretary of State's Office, sent a letter to Respondents, informing them that the first

quarter 1999 lobbying firm report was past due. On July 22, 1999, Ms. Meade sent a second letter to Respondents, informing them that the first quarter 1999 lobbying firm report was still past due. Respondents did not file in response to these notifications. During the first quarter of 1999, Respondents received \$16,250 in lobbying fees from WRDSC.

By failing to timely file the first quarter 1999 lobbying firm report, Respondent violated Section 86117.

#### COUNT 6

##### **Failure to Timely File Second Quarter 1999 Lobbying Firm Report**

Respondents were required to file a second quarter 1999 lobbying firm report by August 2, 1999 for the April 1 to June 30, 1999 reporting period. Respondents did not file the lobbying firm report by the August 2, 1999 due date. On September 21, 1999, Ms Meade sent a letter to Respondents, informing them that the second quarter 1999 lobbying firm report was past due. On November 10, 1999, Ms. Meade sent a second letter to Respondents, informing Respondents that the second quarter 1999 lobbying firm report was still past due. Respondents did not file in response to these notifications. During the second quarter of 1999, Respondents received \$16,250 in lobbying fees from WRDSC.

By failing to timely file the second quarter 1999 lobbying firm report, Respondents violated Section 86117.

#### COUNT 7

##### **Failure to Timely File Third Quarter 1999 Lobbying Firm Report**

Respondents were required to file a third quarter 1999 lobbying firm report by November 1, 1999 for the July 1 to September 30, 1999 reporting period. Respondents did not file the lobbying firm report by the November 1, 1999 due date. On November 16, 1999, Ms Meade sent a letter to Respondents, informing them that the third quarter 1999 lobbying firm report was past due. On January 11, 2000, Ms. Meade sent a second letter to Respondents, informing Respondents that the third quarter 1999 lobbying firm report was still past due. Respondents did not file in response to these notifications. During the third quarter of 1999, Respondents received \$37,250 in lobbying fees from WRDSC.

By failing to timely file the third quarter 1999 lobbying firm report, Respondents violated Section 86117.

#### COUNT 8

##### **Failure to Timely File Fourth Quarter 1999 Lobbying Firm Report**

Respondents were required to file a fourth quarter 1999 lobbying firm report by January 31, 2000 for the October 1 to December 31, 1999 reporting period. Respondents did not file the lobbying firm report by the January 31, 2000 due date. On April 25, 2000, Ms Meade sent a letter to

Respondents, informing them that the fourth quarter 1999 lobbying firm report was past due. On June 21, 2000, Ms. Meade sent a second letter to Respondents, informing them that the fourth quarter 1999 lobbying firm report was still past due. Respondents did not file in response to these notifications. During the fourth quarter of 1999, Respondents received \$32,745 in lobbying fees from WRDSC.

By failing to timely file the fourth quarter 1999 lobbying firm report, Respondents violated Section 86117.

### **Additional Information**

On July 10, 2000, in response to Respondents not filing lobbying firm reports for the calendar year 1999, Ms. Meade referred the matter of Respondent's non-filing to the Enforcement Division of the Fair Political Practices Commission. On November 6, 2000, Political Reform Consultant Colleen McGee of the Enforcement Division contacted Respondents, and advised them to file the past due lobbying firm reports for calendar years 1998 and 1999. On November 29, 2000, Respondents filed the eight delinquent lobbying firm reports.

### **CONCLUSION**

This matter consists of eight counts of violating Section 86117, which carries a maximum administrative penalty of Two Thousand Dollars (\$2,000) per count, for a total of Sixteen Thousand Dollars (\$16,000). However, the typical stipulated penalty for failing to file quarterly lobbying reports has ranged from One Thousand to One Thousand Five Hundred Dollars (\$1,000 to \$1,500), depending on the circumstances of the violation.

In this case, for more than two years, Respondents disregarded several notifications sent by the Secretary of State's Office. However, during the same period, Respondent Curtis Earnest experienced ongoing personal medical problems that affected his ability to file the required lobbying firm reports in a timely manner. As such, an amount at the lower end of the penalty range is appropriate.

Accordingly, the facts of this case justify the imposition of an administrative penalty of Eight Thousand Dollars (\$8,000).